



Health and Human Services  
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December 19, 2018

Justin E. Rice, Esq.  
Tucker Ellis LLP  
950 Main Avenue, Suite 1100  
Cleveland, OH 44113  
*Via email*

**RE: *In re: National Prescription Opiate Litigation*, Case No. 1:17-md-02804  
Subpoena Duces Tecum to Ohio Department of Health**

Dear Mr. Rice:

Please accept this letter as the Department of Health's response to your December 5th and 14th letters. First, I want to make clear that, to date, ODH has produced thousands of pages of material responsive to your August 2018 subpoena in three separate productions. ODH has, after extensive review, provided all responsive materials that it has discovered. If nothing has been produced to you in response to any individual demand, it is because the Department has not yet discovered responsive materials. As the search for additional records continues, I will continue to provide records as they become available.

I must also remind you that neither ODH nor the State of Ohio is a party to this matter, and we have previously objected to the vague and unreasonable requests that you have made upon the agency. Consequently, ODH will not be answering your enumerated questions, as interrogatories may not be directed to non-parties. *See Fed. R. Civ. Proc. R. 33(b)(2); Castle v. Groce-Adams*, 2008 U.S. Dist. LEXIS 2625, at \*4 (Ohio S.D. Jan. 14, 2008). ODH has, as I indicated during our call, done a thorough and diligent search of the records available. That review continues. ODH does not concede that its response to your subpoena has been deficient in any way.

In the spirit of cooperation, I will clarify some of the remarks I made during the call last week. In your August 2008 subpoena you requested records related to the Ohio Pain Advisory Committee, the Ohio Compassionate Care Task Force, the Ohio Prescription Drug Abuse Task Force, and the Prescription Drug Abuse Action Group. Below is what I was able to discover about those initiatives:

1. The Ohio Pain Advisory Committee (“OPAC”) was apparently formed in 1996 and likely ceased operation after HB 474 made all members of the OPAC members of the newly-formed Compassionate Care Task Force in 2002. The Department has found some paper records related to OPAC. Those records are being scanned and will be produced in the near future.

2. The Compassionate Care Task Force (“CCTF”) was created in 2002 by HB 474. That task force was sunsetted by the General Assembly on December 31, 2010. To date, ODH has found no additional records related to the CCTF other than the report found at <http://www.nursing.ohio.gov/pdfs/CCTFRpt.pdf>.
3. The Ohio Prescription Drug Abuse Task Force was created by Executive Order 2010-4S on April 2, 2010, and was chaired by DPS while ODH was vice-chair. To date, ODH has only found materials that are publicly available on the Internet. For instance, the following link includes the initial report issued in May 2010 and identifies the task force members and the executive order identifies how they were selected ([http://opiatecollaborative.cuyahogacounty.us/pdf\\_opiatecollaborative/us\\_ohiorxtaskforce.pdf](http://opiatecollaborative.cuyahogacounty.us/pdf_opiatecollaborative/us_ohiorxtaskforce.pdf)). The Task Force issued its Final Report in October 2010. ([https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=1007&context=prescription\\_drugs](https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=1007&context=prescription_drugs)).
4. The Prescription Drug Abuse Action Group. This group remains active and its actions are publicly available at: <https://odh.ohio.gov/wps/portal/gov/odh/know-our-programs/core-violence-injury-prevention-program/resources/pdaag/>.

The Department is continuing to search for records related to these initiatives. Should any responsive materials be found, they will be disclosed on a rolling basis.

In response to your specific request for more information regarding a 2009 symposium offered by my client, I have attached an excel spreadsheet to the email forwarding this letter. That spreadsheet is the registration list for the 2009 Symposium. Video and Powerpoint presentations given at that symposium remain available at:  
<http://accordent.powerstream.net/008/00153/20090729-083508-1/>;  
<http://accordent.powerstream.net/008/00153/20090729-100512-1/>;  
<http://accordent.powerstream.net/008/00153/20090729-123527-1/>; and  
<http://accordent.powerstream.net/008/00153/20090729-143024-1/>.

The Department of Health is continuing to search for records responsive to the subpoena. However, as we mentioned in our initial response to your subpoena and above, the requests are burdensome, vague, and unlikely to lead to the discovery of relevant evidence. To the extent that you can narrow those requests, it will greatly facilitate a speedy response. Additionally, the Department is still awaiting your list of preferred email search parameters. Without that list, the Department’s production of email records may be substantially slowed.

Sincerely,

/s/ James Wakley

James Wakley

Yvonne Tertel

Assistant Attorneys General

Counsel to the Ohio Department of Health